IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

WP(C).No. 21878 of 2007(D)

PETITIONERS:

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1. RAJU KAKKANATTU,
   AGED 53 YEARS, S/O LATE K.A.KURIAN,
   RESIDING AT KAKKANATTIL, VAZHAPPALLY EAST VILLAGE,
   CHANGANACHERRY TALUK.

2. LIZAMMA RAJU KAKKANATTU,
   KAKKANATTIL, VAZHAPPALLY EAST VILLAGE,
   CHANGANACHERRY TALUK.

BY ADV. SRI.K.GOPALAKRISHNA KURUP
SRI.S.MANU

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
   PRINCIPAL SECRETARY, REVENUE DEPARTMENT,
   GOVERNMENT OF KERALA.

2. THE DISTRICT COLLECTOR,
   KOTTAYAM COLLECTORATE, KOTTAYAM-2.

3. THE REVENUE DIVISIONAL OFFICER,
   KOTTAYAM OFFICE OF THE R.D.O., KOTTAYAM.

4. THE TAHSILDAR, CHANGANACHERRY TALUK
   OFFICE, CHANGANACHERRY.

BY GOVT.PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C) NO. 21878 OF 2007 - D

Dated this the 17th day of July, 2007

J U D G M E N T

The petitioners were sought to be evicted from the properties covered by Exts.P13 and P14. The petitioners earlier approached this Court apprehending eviction although no notices were served. By Ext.P10 judgment dated 26th June, 2007, I expressed the hope that the fourth respondent would take proceedings under the Kerala Land Conservancy Act only after complying with the procedure prescribed under law. I have also mentioned in Ext.P10 as to what are the procedures to be followed by the fourth respondent in such cases. The grievance of the petitioners is that in spite of the same, Exts.P13 and P14 have been issued without complying with the procedure as contemplated in Ext.P10. The petitioners point out that Ext.P13 order is a ready made order prepared in a form with blank spaces and passed by filling up the blank spaces therein which would make it abundantly clear that the fourth respondent has not

applied his mind to the objections of the petitioners.

2. I have heard the learned Government Pleader also. He could not satisfy me that Ext.P13 has been passed after considering the contentions of the petitioners in this regard. In Ext.P13, except the blank statement that there is no merit in the contentions of the petitioners, nothing whatsoever is mentioned as to the reasons why the petitioners' contentions cannot be accepted. In fact there is not even any mention as to what was the contention of the petitioners.

3. In the above circumstances, I quash Exts.P13 and P14 and direct the fourth respondent to proceed afresh in accordance with the procedure stated in Ext.P10. Till such proceedings are completed, the petitioners shall not be evicted from the property in question. I once again remind the fourth respondent that he shall apply his mind specifically to the contentions of the petitioners on the basis of evidence to be adduced by them and shall not merely pass orders by filling up blank spaces in an already prepared order.

The orders shall on the face of its show the contentions of the petitioners and why those contentions are not sustainable. If the orders to be passed are adverse to the petitioners, they shall be given one week's time to seek further remedies before eviction.

The writ petition is disposed of as above.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007